

# COUNTY OF YORK

## MEMORANDUM

**DATE:** September 20, 2004 (BOS Mtg. 10/26/04)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Application No. UP-643-04, Thomas C. & Rebecca J. Waters

### **ISSUE**

Application No. UP-643-04 requests a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on a 2.01-acres parcel located at 300 Railway Road (Route 620) and further identified as Assessor's Parcel No. 25-35-G-001. The accessory apartment is to be located in an existing two-story detached accessory garage.

### **DESCRIPTION**

- Property Owner: Thomas C. & Rebecca J. Waters
- Location: 300 Railway Road (Route 620)
- Area: 2.01 acres
- Frontage: Approximately 198 feet on Railway Road
- Utilities: Public water and public sewer
- Topography: Flat
- 2015 Land Use Map Designation: Low Density Residential
- Zoning Classification: RR - Rural Residential
- Existing Development: Single-family detached home with detached garage
- Surrounding Development:

North: Three Single-family detached residential structures across Railway Road  
East: Vacant parcel approximately 14.5 acres  
South and West: Single-family detached residential structure

- Proposed Development: Detached accessory apartment in conjunction with a single-family detached dwelling.

## **CONSIDERATIONS/CONCLUSIONS**

1. Accessory apartments in detached structures are permitted in the RR district with a Special Use Permit, provided the floor area of the accessory apartment does not exceed 800 square feet, or 35% of the floor area of the principal dwelling, whichever is less. The principal dwelling on the property contains 3,497 square feet of floor area. The proposed accessory apartment would be located on the second floor of an existing 1,728-square foot two-story detached garage. The applicant has indicated the building would be used for visiting guests and immediate family members only. Currently, the second floor is used for storage and has a family pool table. The space is open and has no inside walls. The proposed accessory apartment would contain approximately 648 square feet of habitable floor area, or approximately 19% of the principal dwelling, and would include a kitchenette, living area, bedroom, and bathroom (see attached sketch plan).
2. Performance standards for accessory apartments are set forth in Section 24.1-407 of the Zoning Ordinance. These limit the maximum number of accessory apartments to one per single-family detached dwelling, require adequate provisions for off-street parking, require occupancy only by family members or guests of the occupant of the principal dwelling, and prohibit the apartment from being rented separate from the principal dwelling. These standards have been included as conditions in the approving resolution.
3. The property is located within the Environmental Management Area (EMA) overlay district. The northwestern corner is partially located within the Chesapeake Bay Resource Management Area. Any proposed impervious cover will be required to comply with all requirements set forth within Section 24.1-372 of the Zoning Ordinance.
4. Property within the subdivision is not subject to homeowners' covenants nor does it fall under the jurisdiction of an established homeowners' association. Regardless of any covenants that may be deeded, the County must evaluate the accessory apartment use within the context of the Zoning Ordinance and its standards. The County cannot be a party to the enforcement of private covenants and the approval of a Special Use Permit will not relieve the applicant of any responsibilities for compliance with any such covenants.

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this application at its regular meeting on September 8, 2004 and, subsequent to conducting a public hearing at which no one spoke, voted 6:0 (Harvell absent) to recommend approval.

### **COUNTY ADMINISTRATOR RECOMMENDATION**

I am of the opinion that given the above-noted standards, the subject parcel can accommodate the proposed accessory apartment with no adverse impacts on adjacent properties or County infrastructure. Therefore, I recommend that the Board of Supervisors approve this application. This can be accomplished through the adoption of proposed Resolution No. R04-144.

Carter/3337: EWA

#### **Attachments**

- Excerpts from Planning Commission minutes, September 8, 2004
- Zoning Map
- Survey Plat
- Floor plan of proposed apartment
- Picture of existing garage building
- Proposed Resolution No. R04-144